



State of Utah

JON M. HUNTSMAN, JR.
Governor

GARY R. HERBERT
Lieutenant Governor

DEPARTMENT OF TRANSPORTATION

JOHN R. NJORD, P.E.
Executive Director

CARLOS M. BRACERAS, P.E.
Deputy Director

July 7, 2008

West Valley City Corporation
3600 Constitution Boulevard
West Valley City, Utah 84119

ATTENTION: Russ Willardson, Public Works Director

SUBJECT: SP-0171(18)6; Salt Lake County
3500 South; Bangerter Hwy. to 2700 West, Phase II
UTAH DEPARTMENT OF TRANSPORTATION
UTOPIA
WEST VALLEY CITY CORPORATION
Authority No. 78125 PIN 5608

Dear Mr. Willardson:

Attached are six copies of the proposed three party agreement between the Utah Department of Transportation, Utopia, and West Valley City Corporation for the above subject project. This agreement has now been signed by Utopia.

Please review this document. If it is found to be satisfactory for the purposes intended, please have the proper officials sign and attest five copies and return them to this office for further processing. A copy of the fully executed agreement will be mailed to you when it is available.

Sincerely,

Raymond S. Meldrum
UDOT Region Two
Utilities Engineering Coordinator

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UTAH DEPARTMENT OF TRANSPORTATION
UTOPIA
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100% REIMBURSEMENT AGREEMENT

WITH WEST VALLEY CITY BETTERMENT

THIS AGREEMENT, made and entered into this ____ day of _____ 2008, by and between the **UTAH DEPARTMENT OF TRANSPORTATION**, hereinafter referred to as "**UDOT**" and **UTAH TELECOMMUNICATIONS OPEN INFRASTRUCTURE AGENCY**, A Political Subdivision of the State of Utah, hereinafter referred to as **UTOPIA**, and **WEST VALLEY CITY CORPORATION**, a Municipal Corporation of the State of Utah, hereinafter referred to as the "**City**",

WITNESSETH:

WHEREAS, **UDOT** has prepared plans, specifications and estimates of costs for the construction of the highway project identified as SP-0171(18)6; 3500 South, Bangerter Highway to 2700 West, Phase II, in Salt Lake County, Utah, hereinafter referred to as the Project. The Project necessitates work consisting of relocating/adjusting **UTOPIA's** facilities; and

WHEREAS, as amended effective July 1, 2000, 72-6-116. Regulation of Utilities - Relocation of Utilities, (3) (a) (i), **UTOPIA** is a political subdivision and therefore **UDOT** will participate in 100% of the cost of required relocation of **UTOPIA's** facilities; and

WHEREAS, in accordance with 23 CODE OF FEDERAL REGULATIONS, Part 645, Subpart A, Utility Relocation, Adjustments and Reimbursement, **UTOPIA** has determined, with the concurrence of **UDOT**, that accrued depreciation credit is not required as a result of said work; and

WHEREAS, the **City** desires to include a betterment with said work consisting of placing the presently overhead communication facilities underground; and

WHEREAS, **UDOT** and **UTOPIA** are agreeable to said betterment providing the difference in costs between the minimum construction required and the **City's** desired construction is at the **City's** expense as shown in the cost estimates included herein; and

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WHEREAS, pursuant to Federal Highway Administration's requirements as contained in 23 CODE OF FEDERAL REGULATIONS, Part 645, Subpart B, Accommodation of Utilities, **UDOT** approved traffic control devices shall conform to the standards set forth in the "Manual on Uniform Traffic Control Devices" and 23 CODE OF FEDERAL REGULATIONS, Part 630, Subpart J, "Traffic Safety in Highway and Street Work Zones". All flagging personnel shall be certified.

THIS AGREEMENT is made to set out the terms and conditions where under said work shall be performed.

NOW THEREFORE, it is agreed by and between the parties hereto as follows:

(1). **UTOPIA** will notify **UDOT's** Project Engineer assigned to this project at least twenty-four (24) hours in advance of beginning any work covered herein on a day to day basis. Said notification can be informal. It is hereby acknowledged by the parties hereto that, when the **Company** experiences emergency work of its own during work on the highway project, it will take care of said emergency, after which it will again informally notify said Project Engineer's office as to when work will be resumed on said highway project. Failure on the part of the **Company** to give proper notification to **UDOT's** Project Engineer's office will result in **UDOT's** disallowance of reimbursement for that portion of **UTOPIA's** work performed while not under the surveillance of **UDOT's** Project Engineer or his authorized representative.

(2). **UTOPIA**, with its regular engineering and construction forces at its standard schedule of wages and working hours, or through qualified contractors with whom it has obtained contracts upon appropriate solicitation in accordance with 23 CODE OF FEDERAL REGULATIONS, Part 645, Subpart A, Utility Relocations, Adjustments and Reimbursement, shall perform the necessary field and office engineering, furnish all materials, and perform the construction work covered herein. In the performance of said work **UTOPIA** will adhere to the procedures and specifications contained in **UDOT's** "MANUAL FOR THE ACCOMMODATION OF UTILITIES AND THE CONTROL AND PROTECTION OF STATE HIGHWAY RIGHTS OF WAY", a copy of which has been furnished to the **Company** and any supplements or amendments thereto. **UTOPIA** shall not perform any construction until authorized in writing by **UDOT**.

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(3). **UDOT**, through its Project Engineer, will keep daily record of the work performed by **UTOPIA**, such daily record to be in duplicate on a form to be prepared by **UTOPIA** and/or **UDOT**. The type of form to be used shall be approved by **UDOT**'s Contracts, Estimates and Agreements Office. Said daily record shall be signed by **UDOT**'s Project Engineer and **UTOPIA**'s authorized representatives in the space provided for on said record form. Copy of said record form shall be retained by all parties to this agreement. When emergencies occur, requiring **UTOPIA**'s work forces to leave the job, said record keeping shall be resumed upon return to the highway project.

(4). An estimate of cost of the required work including the **City's** desired betterment work was furnished by **UTOPIA** to **UDOT** under date of February 26, 2008, in the amount of \$216,237.62. The estimate is based upon the prices of materials and labor current as of the date of said estimate. The estimate does not account for increases due to unknown and unforeseen hardships in accomplishing the work. A summary of cost estimate and participation ratios is marked EXHIBIT A, attached hereto and thereby made a part hereof.

PARTICIPATION RATIOS

<u>UDOT</u>		<u>CITY</u>	
137,014.48		79,223.14	
_____	= 63%	_____	= 37%
216,237.62		216,237.62	

(5). All materials recovered from the existing facilities shall be credited to the cost of the project in accordance with 23 CODE OF FEDERAL REGULATIONS, Part 645, Subpart A, Sec. 645.117, Cost Developments and Reimbursement.

(6). In the event there are changes in the scope of the work, extra work, or changes in the planned work covered by this agreement, a modification to this agreement approved in writing by the parties hereto is required prior to the start of work on said changes or additions.

(7). **UTOPIA**, while engaged in the relocation of their facilities, shall comply with **UDOT**'s "2008 Standard Specifications for Road and Bridge Construction" Section 01355, Part 1.13, Discovery of Historical, Archeological or Paleontological Objects, Features, Sites, Human Remains, or Migratory Avian Species.

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(8). With respect to work performed by contract, **UTOPIA** shall not discriminate in its choice of contractors and shall adhere to the provisions contained in Section II of the Federal Highway Administration's Form PR 1273, a copy of which has been furnished to **UTOPIA**.

(9). **UTOPIA** is required to mark all underground facilities with approved markers and to keep on file "as constructed plans" of all their work covered herein for future reference.

(10). **UTOPIA** shall submit itemized bills for performing the work covered herein bearing the project number together with supporting sheets within one (1) year following completion of the work by **UTOPIA** on **UDOT's** project t: **UDOT's** Contracts, Estimates and Agreements Manager, 4501 South 2700 West, Box 148220, Salt Lake City, Utah 84114-8220. **UDOT** will reimburse **UTOPIA** within sixty (60) days after receipt of said billings. Failure on the part of **UTOPIA** to submit said billings within said one (1) year time limit will result in **UDOT's** disallowance of that portion of work performed by **UTOPIA**. Any work performed without proper notification to **UDOT's** Project Engineer's office shall be cited to **UTOPIA** and deducted from the reimbursement.

(11). Upon execution of this agreement by the parties hereto, the City will deposit with **UDOT's** Comptroller's Office, 4501 South 2700 West, Box 141500, Salt Lake City Utah 84119-1500, the amount of Seventy Nine Thousand, Two Hundred and Twenty Three Dollars and Fourteen Cents (\$79,223.14). The final amount of the City's participation shall be determined pursuant to the participation ratios contained in paragraph (4) of this Agreement.

(12). If **UTOPIA's** actual costs incurred for their force account work differs more than 10% plus or minus per line item from amount contained herein then **UTOPIA** is required to submit a letter of explanation with their billings indicating why and how said difference in costs occurred. **UTOPIA** is required to match their billings of completed work with their detailed estimates contained herein.

(13). Reimbursable costs for work performed under the provisions of this agreement shall be developed in accordance with 23 CODE OF FEDERAL REGULATIONS, Part 645, Subpart A. See 645.113 and 645.117.

(14). **UDOT** shall have the right to audit all cost records and accounts of pertaining to this project in accordance with the auditing procedure of the Federal Highway Administration and 23 CODE OF FEDERAL REGULATIONS, Part 645, Subpart A, Utility Relocations, Adjustments and Reimbursement. Should this audit disclose that **UTOPIA** has been underpaid, **UTOPIA** will be reimbursed by **UDOT** upon submission of additional billing to cover the underpayment. Should

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this audit disclose that **UTOPIA** has been overpaid, **UTOPIA** will reimburse **UDOT** in the amount of the overpayment. For purpose of audit, **UTOPIA** is required to keep and maintain its records of work covered herein for a minimum of three (3) years after final payment is received by **UTOPIA** from **UDOT**.

(15). It is understood that access for maintenance and servicing of **UTOPIA's** property located on the right of way of said project will be permitted only by permit issued by the owner of said right of way to **UTOPIA**, and that **UTOPIA** will obtain said permit and abide by conditions thereof for policing and other controls in conformance with **UDOT's** "MANUAL FOR THE ACCOMMODATION OF UTILITIES AND THE CONTROL AND PROTECTION OF STATE HIGHWAY RIGHTS OF WAY", a copy of which has been furnished to **UTOPIA** and any supplements or amendments thereto.

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IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed by its duly authorized officers as of the day and year first above written.

ATTEST:

Whitney Hall
Date: 6/25/08
(IMPRESS SEAL)

Utah Telecommunications Open
Infrastructure Agency,
A Political Subdivision of the
State of Utah.

By [Signature]
Title Executive Director
Date: _____

ATTEST:

Title _____
Date: _____

WEST VALLEY CITY CORPORATION,
A Municipal Corporation of the State
of Utah.

By _____

Title _____
Date: _____

APPROVED AS TO FORM
West Valley City Attorney's Office
By: [Signature]
Date: 6.22.08

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RECOMMENDED FOR APPROVAL: UTAH DEPARTMENT OF TRANSPORTATION

By Raymond S. Meldrum
Region Utilities and Railroads
Engineering Coordinator

By _____
Region Director

Date: 4/21/08

Date: _____

APPROVED AS TO FORM:

The Utah State Attorney General's
Office has previously approved all
paragraphs in this Agreement as to
form.

By _____
UDOT Comptroller Office
Contract Administrator

Date: _____

Exhibit A

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UTOPIA COST ESTIMATE:

Total relocation Cost (without Trenching and Conduits Cost)	\$216,237.62
WVC Cost (Overhead to underground)	\$79,223.14

UTOPIA Cost	0	0%
WVC Cost	\$79,223.14	37%
UDOT Cost	\$137,014.48	63%
